

FIRST REGULAR SESSION

# SENATE BILL NO. 271

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time January 29, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1515S.011

## AN ACT

To amend chapter 135, RSMo, by adding thereto eighteen new sections relating to senior citizen homestead deferral of taxes.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 135, RSMo, is amended by adding thereto eighteen  
2 new sections, to be known as sections 135.042, 135.044, 135.046, 135.048,  
3 135.050, 135.052, 135.054, 135.056, 135.058, 135.060, 135.062, 135.064, 135.066,  
4 135.068, 135.070, 135.072, 135.074 and 135.076, to read as follows:

**135.042. As used in sections 135.042 to 135.076, the following  
2 terms shall mean:**

3 (1) "Department", the department of revenue;

4 (2) "Director", the director of the department of revenue;

5 (3) "Equity interest", the difference between the assessed value  
6 of the property by the county assessor's office and the total of:

7 (a) All debts from the lien of mortgage, deeds of trust or security  
8 interests which are recorded or noted on a certificate of title prior to  
9 January first of the current tax year; and

10 (b) Accumulated deferred taxes;

11 (4) "Homestead", the owner occupied principal dwelling, either  
12 real or personal property, owned by the taxpayer and the tax lot upon  
13 which it is located for at least the previous five years. If the homestead  
14 is located in a multi-unit building, the homestead is the portion of the  
15 building actually used as the principal dwelling and its percentage of  
16 the value of the common elements and of the value of the tax lot upon  
17 which it is built. The percentage is the value of the unit consisting of  
18 the homestead compared to the total value of the building exclusive of  
19 the common elements, if any;

20           (5) "Taxpayer", an individual who has filed a claim for deferral  
21 pursuant to section 135.044 or individuals who have jointly filed a claim  
22 for deferral pursuant to section 135.044;

23           (6) "Tax-deferred property", the property upon which taxes are  
24 deferred pursuant to sections 135.042 to 135.076;

25           (7) "Taxes" or "property taxes", ad valorem taxes, assessments,  
26 fees and charges entered on the assessment and tax roll.

135.044. 1. An individual, or two or more individuals jointly, may  
2 elect to defer the property taxes on their homestead by filing a claim  
3 for deferral with the county assessor after January first and on or  
4 before October fifteenth of the first year in which deferral is claimed  
5 if the individual, or, in the case of two or more individuals filing a  
6 claim jointly, the older individual, is fifty-nine and one-half years of  
7 age or older on October fifteenth of the year in which the claim is filed,  
8 or if the individual is disabled, or in the case of two or more  
9 individuals filing a claim jointly, one of the individuals is disabled. No  
10 such individual or individuals shall be eligible to defer property taxes  
11 under this section if such individual or individuals filed a valid claim  
12 for any homestead exemption credit under section 137.106, RSMo.

13           2. The county assessor shall forward each claim filed pursuant  
14 to this section to the director which shall determine if the property is  
15 eligible for deferral.

16           3. When the taxpayer elects to defer property taxes for any year  
17 by filing a claim for deferral pursuant to subsection 1 of this section,  
18 it shall have the effect of:

19           (1) Deferring the payment of the property taxes levied on the  
20 homestead for the fiscal year beginning on January first of such year;

21           (2) Continuing the deferral of the payment by the taxpayer of  
22 any property taxes deferred pursuant to sections 135.042 to 135.076 for  
23 previous years which have not become delinquent pursuant to section  
24 135.062;

25           (3) Continuing the deferral of the payment by the taxpayer of  
26 any future property taxes for as long as the provisions of section  
27 135.046 are met.

28           4. If a guardian or conservator has been appointed for an  
29 individual otherwise qualified to obtain deferral of taxes pursuant to  
30 sections 135.042 to 135.076, the guardian or conservator may act for

31 such individual in complying with the provisions of sections 135.042 to  
32 135.076.

33 5. If a trustee of an inter vivos trust which was created by and  
34 is revocable by an individual, who is both the settlor and a beneficiary  
35 of the trust and who is otherwise qualified to obtain a deferral of taxes  
36 pursuant to sections 135.042 to 135.076, owns the fee simple estate  
37 under a recorded instrument of sale, the trustee may act for the  
38 individual in complying with the provisions of sections 135.042 to  
39 135.076.

40 6. Nothing in this section shall be construed to require a spouse  
41 of an individual to file a claim jointly with the individual even though  
42 the spouse may be eligible to claim the deferral jointly with the  
43 individual.

44 7. Any person aggrieved by the denial of a claim for deferral of  
45 homestead property taxes or disqualification from deferral of  
46 homestead property taxes may appeal in the manner provided for  
47 denial of a claim pursuant to section 143.841, RSMo.

135.046. In order to qualify for tax deferral pursuant to sections  
2 135.042 to 135.076, the property shall meet all of the following  
3 requirements when the claim is filed and thereafter so long as the  
4 payment of taxes by the taxpayer is deferred:

5 (1) The property shall be the homestead of the individual or  
6 individuals who file the claim for deferral, except for an individual  
7 required to be absent from the homestead by reason of health;

8 (2) The person claiming the deferral shall, by himself or herself  
9 or together with his or her spouse, own the fee simple estate or be  
10 purchasing the fee simple estate under a recorded instrument of sale,  
11 or two or more persons shall together own or be purchasing the fee  
12 simple estate with rights of survivorship under a recorded instrument  
13 of sale if all owners live in the homestead and if all owners apply for  
14 the deferral jointly;

15 (3) There shall be no prohibition to the deferral of property taxes  
16 contained in any provision of federal law, rule or regulation applicable  
17 to a mortgage, trust deed, land sale contract or conditional sale  
18 contract for which the homestead is security;

19 (4) The equity interest in the homestead is a positive number  
20 equal to or exceeding ten percent of the assessed value of the

21 homestead; and

22 (5) The person claiming the deferral shall, by himself or herself  
23 or together with his or her spouse, show proof of insurance on the  
24 homestead in an amount equal to or exceeding the assessed value of the  
25 homestead to the director.

135.048. 1. A taxpayer's claim for deferral pursuant to section  
2 135.044 shall be in writing on a form supplied by the department and  
3 shall:

4 (1) Describe the homestead;

5 (2) Recite facts establishing the eligibility for the deferral  
6 pursuant to the provisions of sections 135.042 to 135.076;

7 (3) Have attached any documentary proof required by the  
8 director to show that the requirements of sections 135.042 to 135.076  
9 have been met.

10 2. There shall be annexed to the claim a statement verified by a  
11 written declaration of the applicant making the claim to the effect that  
12 the statements contained in the claim are true.

135.050. 1. If eligibility for deferral of homestead property is  
2 established as provided in sections 135.042 to 135.076, the director shall  
3 notify the county assessor and the county assessor shall show on the  
4 current ad valorem assessment and tax roll which property is  
5 tax-deferred property by an entry clearly designating such property as  
6 tax-deferred property.

7 2. When requested by the director, the tax collector shall send to  
8 the director as soon as the taxes are extended upon the roll the tax  
9 statement for each tax-deferred property.

10 3. Interest shall accrue on the actual amount of taxes advanced  
11 to the county for the tax-deferred property at the rate of the average  
12 annual interest rate paid on any bonds or other evidence of  
13 indebtedness, plus two percent rounded up to the nearest whole  
14 percentage.

135.052. 1. In each county in which there is tax-deferred  
2 property, the director shall cause to be recorded in the mortgage  
3 records of the county, a list of tax-deferred properties of that county  
4 prepared by the assessor. The list shall contain a description of the  
5 property as listed on the assessment roll together with the name of the  
6 owner listed thereon.

7           2. Except as provided in section 135.058, the recording of the  
8 tax-deferred properties pursuant to subsection 1 of this section shall be  
9 notice that the director claims a lien against those properties in the  
10 amount of the deferred taxes plus interest together with any fees paid  
11 to the recorder of deeds in connection with the recording, release or  
12 satisfaction of the lien, even though the amount of taxes, interest or  
13 fees is not listed.

14           3. Notwithstanding any provisions of law to the contrary, the  
15 director shall not be required to pay any filing, indexing, or recording  
16 fees to the county in connection with the recording, release, or  
17 satisfaction of liens against tax-deferred properties of that county in  
18 advance or at the time entry is made.

          135.054. 1. Upon determining the amount of deferred taxes on  
2 tax-deferred property for the tax year, the director shall pay to the  
3 respective county tax collectors an amount equivalent to the deferred  
4 taxes less two percent thereof. Payment shall be made from the  
5 account established pursuant to section 135.076.

6           2. The director shall maintain accounts for each deferred  
7 property and shall accrue interest only on the actual amount of taxes  
8 advanced to the county.

9           3. If only a portion of taxes are deferred pursuant to section  
10 135.065, the director shall pay the portion that is eligible for deferral  
11 to the tax collector and shall provide a separate notice to the county  
12 assessor stating the amount of property taxes that the director is  
13 paying.

          135.056. 1. On or before December fifteenth of each year, the  
2 director shall send a notice to each taxpayer who is qualified to claim  
3 deferral of property taxes for the current tax year. The notice shall:

4           (1) Inform the taxpayer that the property taxes have or have not  
5 been deferred in the current year;

6           (2) Show the total amount of deferred taxes remaining unpaid  
7 since initial application for deferral and the interest accruing therein  
8 to November fifteenth of the current year;

9           (3) Inform the taxpayer that voluntary payment of the deferred  
10 taxes may be made at any time to the director; and

11           (4) Contain any other information that the director considers  
12 necessary to facilitate administration of the homestead deferral

13 **program.**

14           **2. The director shall give the notice required pursuant to**  
15 **subsection 1 of this section by an unsealed postcard or other form of**  
16 **mail sent to the residence address of the taxpayer as shown in the**  
17 **claim for deferral or as otherwise determined by the director to be the**  
18 **correct address of the taxpayer.**

19           **3. Any taxpayer who meets the requirements of section 135.044**  
20 **and whose homestead meets the requirements of section 135.046 who**  
21 **has not deferred their property tax for the preceding calendar year and**  
22 **who has deferred in prior years shall be permitted to file the**  
23 **application required by section 135.048 until January thirtieth of the**  
24 **following calendar year.**

**135.058. 1. At the time that the taxpayer elects to defer property**  
2 **taxes pursuant to sections 135.042 to 135.076, the director shall estimate**  
3 **the amount of property taxes that shall be deferred for tax years**  
4 **beginning on or after January 1, 2009, and interest thereon. Thereafter,**  
5 **the director shall have a lien in the amount of the estimate.**

6           **2. The lien created pursuant to subsection 1 of this section shall**  
7 **attach to the property to which the election to defer relates on January**  
8 **first of the tax year of initial deferral.**

9           **3. The lien created under subsection 1 of this section in the**  
10 **amount of the estimate shall have the same priority as other real**  
11 **property tax liens except that the lien of mortgages, trust deeds, or**  
12 **security interests which are recorded or noted on a certificate of title**  
13 **prior in time to the attachment of the lien for deferred taxes shall be**  
14 **prior to the liens for deferred taxes.**

15           **4. If during the period of tax deferment, the amount of taxes,**  
16 **interest and fees exceeds the estimate, the director shall have a lien for**  
17 **the amount of the excess. The liens for the excess shall attach to the**  
18 **property on January first of the tax year in which the excess**  
19 **occurs. The lien for the excess shall have the same priority as other**  
20 **real property tax liens, except that the lien of mortgages, trust deeds**  
21 **or security interests recorded or noted on any certificate of title prior**  
22 **in time to the date that the director records an amendment to its**  
23 **estimate to reflect its lien for the excess shall be prior to the lien for**  
24 **the excess.**

25           **5. Notwithstanding the provisions of section 135.052, the notice**

26 of lien for deferred taxes recorded as provided in section 135.052  
27 arising on or after January 1, 2009, shall list the amount of the estimate  
28 of deferred taxes, interest and fees made by the director pursuant to  
29 subsection 1 of this section and any amendment to the notice to reflect  
30 a lien for excess, as described pursuant to subsection 4 of this section,  
31 shall list the amount of the excess that the director claims as lien.

32 6. A lien created pursuant to this section may be foreclosed by  
33 the director pursuant to the law relating to foreclosure in civil suits or  
34 any other collection methods given the director of revenue. The court  
35 may award reasonable attorney fees to the prevailing party in a  
36 foreclosure action pursuant to this section.

37 7. Receipts from foreclosure proceedings shall be credited in the  
38 same manner as other repayments of deferred property taxes pursuant  
39 to section 135.076.

40 8. By means of voluntary payment made as provided pursuant to  
41 section 135.066, the taxpayer may limit the amount of the lien for  
42 deferred taxes created pursuant to this section. If the taxpayer desires  
43 that the limit be reflected in the records of the county, the taxpayer  
44 shall request, subject to any rules adopted by the director, that the  
45 director cause a partial satisfaction of the lien to be recorded in the  
46 county. Upon receipt of such a request, the director shall cause a  
47 partial satisfaction, in the amount of the voluntary payment, to be so  
48 recorded. Nothing in this subsection shall affect the priority of the  
49 liens of the director, as originally created pursuant to subsections 1  
50 and 4 of this section.

51 9. Nothing in this section shall affect any lien arising pursuant  
52 to sections 135.042 to 135.076 for taxes assessed before January 1, 2009.

135.060. Subject to section 135.064, all deferred property taxes,  
2 including accrued interest, become payable as provided in section  
3 135.062 when:

4 (1) The taxpayer who claimed deferment of collection of property  
5 taxes on the homestead dies or, if there was more than one claimant,  
6 the survivor of the taxpayers who originally claimed deferment of  
7 collection of property taxes pursuant to section 135.044 dies;

8 (2) Except as provided in section 135.057, the property with  
9 respect to which deferment of collection of taxes is claimed is sold, or  
10 a contract to sell is entered into, or some person other than the

11 taxpayer who claimed the deferment becomes the owner of the  
12 property;

13 (3) The tax-deferred property is no longer the homestead of the  
14 taxpayer who claimed the deferral, except in the case of a taxpayer  
15 required to be absent from such tax-deferred property by reason of  
16 health;

17 (4) The tax-deferred property, a manufactured structure or  
18 floating home, is moved out of the state; or

19 (5) Any outstanding indebtedness against the tax-deferred  
20 property is refinanced.

135.062. 1. Whenever any of the circumstances listed in section  
2 135.060 occurs:

3 (1) The deferral of taxes for the assessment year in which the  
4 circumstance occurs shall continue for such assessment year; and

5 (2) The amounts of deferred property taxes, including accrued  
6 interest, for all years shall be due and payable on the date of closing or  
7 the date of probate to the director, except as provided in subsection 3  
8 of this section, section 135.064 and section 135.070.

9 2. Notwithstanding the provisions of subsection 1 of this section  
10 and section 135.070, when the circumstances listed in subdivision (4) of  
11 section 135.060 occur, the amount of deferred taxes shall be due and  
12 payable five days before the date of removal of the property from the  
13 state.

14 3. If the amounts falling due as provided in this section are not  
15 paid on the indicated due date, or as extended pursuant to section  
16 135.070 such amounts shall be deemed delinquent as of that date and  
17 the property shall be subject to foreclosure as provided in section  
18 135.058.

135.064. 1. Notwithstanding the provisions of section 135.060,  
2 when one of the circumstances listed in section 135.060 occurs, the  
3 spouse who was not eligible to or did not file a claim jointly with the  
4 taxpayer may continue the property in its deferred tax status by filing  
5 a claim within the time and in the manner provided pursuant to section  
6 135.044 if:

7 (1) The spouse of the taxpayer is or will be sixty years of age or  
8 older not later than six months from the day the circumstance listed in  
9 section 135.060 occurs; and

10           **(2) The property is the homestead of the spouse of the taxpayer**  
11 **and meets the requirements of subsection 2 of section 135.046.**

12           **2. A spouse who does not meet the age requirements of**  
13 **subsection 1 of this section but is otherwise qualified to continue the**  
14 **property in its tax-deferred status pursuant to subsection 1 of this**  
15 **section may continue the deferral of property taxes deferred for**  
16 **previous years by filing a claim within the time and in the manner**  
17 **provided pursuant to section 135.044. If a spouse eligible for and**  
18 **continuing the deferral of taxes previously deferred pursuant to this**  
19 **subsection becomes fifty-nine and one half years of age prior to October**  
20 **fifteenth of any year, the spouse may elect to continue the deferral of**  
21 **previous years' taxes deferred pursuant to this subsection and may**  
22 **elect to defer the current assessment year's taxes on the homestead by**  
23 **filing a claim within the time and in the manner provided pursuant to**  
24 **section 135.044. Thereafter, payment of the taxes levied on the**  
25 **homestead and deferred pursuant to this subsection and payment of**  
26 **taxes levied on the homestead in the current assessment year and in**  
27 **future years may be deferred in the manner provided in and subject to**  
28 **sections 135.042 to 135.076.**

29           **3. Notwithstanding that section 135.044 requires that a claim be**  
30 **filed no later than October fifteenth, if the director determines that**  
31 **good and sufficient cause exists for the failure of a spouse to file a**  
32 **claim pursuant to this section on or before October fifteenth, the claim**  
33 **may be filed within one hundred eighty days after notice of taxes due**  
34 **and payable pursuant to section 135.042 is mailed or delivered by the**  
35 **director to the taxpayer or spouse.**

**135.066. 1. All payments of deferred taxes shall be made to the**  
2 **director.**

3           **2. Any payment made pursuant to this section shall be applied**  
4 **first against accrued interest and any remainder against the deferred**  
5 **taxes. Such payment shall not affect the deferred tax status of the**  
6 **property. Unless otherwise provided by law, such payment shall not**  
7 **give the person paying the taxes any interest in the property or any**  
8 **claim against the estate, in the absence of a valid agreement to the**  
9 **contrary.**

10           **3. When the deferred taxes and accrued interest are paid in full**  
11 **and the property is no longer subject to deferral, the director shall**

12 **prepare and record in the county in which the property is located a**  
13 **satisfaction of deferred property tax lien.**

135.068. 1. **At the time the property is deeded over to the county**  
2 **at the conclusion of the foreclosure proceedings pursuant to chapter**  
3 **141, RSMo, the court shall order the county treasurer to pay to the**  
4 **director, from the unsegregated tax collections account, the amount of**  
5 **deferred taxes and interest which were not collected.**

6 2. **Immediately upon payment, the county treasurer shall notify**  
7 **the tax collector of the amount paid to the director for the property**  
8 **which has been deeded to the county.**

135.070. 1. **The director may extend the time for payment of the**  
2 **deferred taxes and interest accruing with respect to the taxes becoming**  
3 **due and payable pursuant to subsection 2 of section 135.062 if:**

4 (1) **The taxpayer who claimed homestead property tax deferral**  
5 **dies, or if a spouse who continued the deferral pursuant to section**  
6 **135.064 dies;**

7 (2) **The homestead property becomes property of an individual**  
8 **or individuals:**

9 (a) **By inheritance or devise; or**

10 (b) **If the individual or individuals are heirs or devisees, as**  
11 **defined pursuant to section 472.010, RSMo, in the course of settlement**  
12 **of the estate;**

13 (3) **The individual or individuals commence occupancy of the**  
14 **property as a principal residence on or before February fifteenth of the**  
15 **calendar year following the calendar year of death; and**

16 (4) **The individual or individuals make application to the**  
17 **director for an extension of time for payment of the deferred taxes and**  
18 **interest prior to February fifteenth of the calendar year following the**  
19 **calendar year of death.**

20 2. (1) **Subject to subdivision (2) of this subsection, an extension**  
21 **granted pursuant to this section shall be for a period not to exceed five**  
22 **years after February fifteenth of the calendar year following the**  
23 **calendar year of death. The terms and conditions under which the**  
24 **extension is granted shall be in accordance with a written agreement**  
25 **entered into by the director and the individual or individuals.**

26 (2) **An extension granted pursuant to this section shall terminate**  
27 **immediately if:**

28 (a) The homestead property is sold or otherwise transferred by  
29 any party to the extension agreement;

30 (b) All of the heirs or devisees who are parties to the extension  
31 agreement cease to occupy the property as a principal residence; or

32 (c) The homestead property, a manufactured structure or  
33 floating home, is moved out of the state.

34 3. If the director has reason to believe that the homestead  
35 property is not sufficient security for the deferred taxes and interest,  
36 the director may require the individual or individuals to furnish a bond  
37 conditioned upon payment of the amount extended in accordance with  
38 the terms of the extension. The bond shall not exceed an amount  
39 double the taxes with respect to which tax extension is granted.

40 4. During the period of extension, and until paid, the deferred  
41 taxes shall continue to accrue interest in the same manner and at the  
42 same rate as provided pursuant to subsection 3 of section 135.050. No  
43 interest shall accrue upon interest.

44 5. When any taxpayer who claimed homestead property tax  
45 deferral dies, the spouse, heirs and devisees, as defined pursuant to  
46 section 472.010, RSMo, shall notify in writing the director of the  
47 taxpayer's death.

135.072. Nothing in sections 135.042 to 135.076 is intended to or  
2 shall be construed to:

3 (1) Prevent the collection, by foreclosure, of property taxes  
4 which become a lien against tax-deferred property;

5 (2) Defer payment of special assessments to benefitted property  
6 which assessments do not appear on the assessment and tax roll; or

7 (3) Affect any provision of any mortgage or other instrument  
8 relating to land requiring a person to pay property taxes.

135.074. After August 28, 2008, it shall be unlawful for any  
2 mortgage trust deed or land sale contract to contain a clause or  
3 statement which prohibits the owner from applying for the benefits of  
4 the deferral of homestead property taxes provided in sections 135.042  
5 to 135.076. Any such clause or statement in a mortgage trust deed or  
6 land sale contract executed after August 28, 2008, shall be void.

135.076. 1. There is hereby established in the state treasury the  
2 "Property Tax Deferral Revolving Account" which shall consist of money  
3 collected under this section. The state treasurer shall be custodian of

4 the account. In accordance with sections 30.170 and 30.180, RSMo, the  
5 state treasurer may approve disbursements. Upon appropriation,  
6 money in the account shall be used solely for the purposes in sections  
7 135.042 to 135.076. Notwithstanding the provisions of section 33.080,  
8 RSMo, to the contrary, any moneys remaining in the account at the end  
9 of the biennium shall not revert to the credit of the general revenue  
10 fund. The state treasurer shall invest moneys in the account in the  
11 same manner as other funds are invested. Any interest and moneys  
12 earned on such investments shall be credited to the account.

13 2. The moneys in the account shall be used by the director of  
14 revenue for the purpose of making the payments to:

15 (1) County tax collectors of property taxes deferred for tax years  
16 beginning on or after January 1, 2009, as required by section 135.054;

17 (2) The director for its expenses in administering the property  
18 tax and special assessment senior deferral programs.

19 3. The funds necessary to make payments under subsection 1 of  
20 this section shall be advanced annually to the director.

21 4. The senior property tax deferral revolving account may  
22 include a reserve for payment of department administrative expenses.

23 5. All sums of money received by the director pursuant to  
24 sections 135.042 to 135.076 as repayments of deferred property taxes  
25 including the interest accrued pursuant to subsection 3 of section  
26 135.050 shall, upon receipt, be credited to the revolving account and are  
27 continuously appropriated to the department for the purposes of  
28 subsection 1 of this section.

29 6. If there is not sufficient money in the revolving account to  
30 make the payments required by subsection 1 of this section, an amount  
31 sufficient to make the required payments shall be transferred from the  
32 general revenue fund to the revolving account.

33 7. When the department determines that moneys in sufficient  
34 amounts are available in the revolving account, the director shall repay  
35 to the general revenue fund the amounts advanced as investments  
36 pursuant to subsection 2 of this section. The moneys used to repay the  
37 general revenue fund pursuant to this section shall not be considered  
38 as part of the calculation of total state revenue. Provisions of section  
39 33.080, RSMo, to the contrary notwithstanding, moneys in the revolving  
40 account shall not lapse to general revenue.

41           **8. The account may be funded by bonds or other evidence of**  
42 **indebtedness in an amount necessary to make the payments required**  
43 **by this section.**

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